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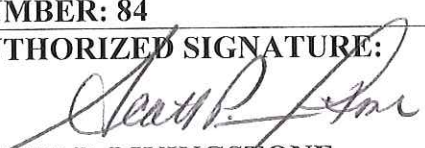


AMHERST Massachusetts

Amherst Police Department
111 Main Street
Amherst, Massachusetts
01002

Scott P. Livingstone
Chief of Police
Business (413) 259-3000
Chief (413) 259-3014
Records (413) 259-3016
Fax (413) 259-2408
police@amherstma.gov

DEPARTMENT DIRECTIVE

Accreditation Standard #:	NUMBER: 84
DOMESTIC VIOLENCE INVOLVING POLICE OFFICERS	AUTHORIZED SIGNATURE:  SCOTT P. LIVINGSTONE, CHIEF OF POLICE
REFERENCE(S): CALEA STANDARDS	New _____ Amends _____ Rescinds _____ Review <u> X </u>
	Date of Issue: <u>08/24/2015</u> Effective Date: <u>08/24/2015</u> Subsequent Reviews: Every 2 years

PURPOSE: This General Order indicates that a review was completed on policy #84, Domestic Violence Involving Police Officers. It was found that revisions were not needed. This policy will remain in effect until further notice.

The Administrative Captain will see that this policy is placed in all Departmental Policy and Procedure Manuals.

POLICIES AND PROCEDURES

DOMESTIC VIOLENCE INVOLVING POLICE OFFICERS

GENERAL CONSIDERATIONS AND GUIDELINES

This policy acknowledges that some police officers commit domestic violence against their intimate partners or family members. The purpose of this policy is to establish procedures for handling matters of domestic violence and abuse involving police officers. This policy will provide police officers guidance in addressing incidents where one (or more) party to a possible domestic violence incident is an employee, of any rank in the department.

I. POLICY

The policy takes a continuum approach, seeking first to educate at all phases of an officer's career, then prevent, or interdict, domestic abuse situations early on in order to reduce victimization of the partner and increase the chances of officer career stability.

Where incidents of domestic violence are alleged to have occurred, the department will act quickly to protect the victim, arrest the perpetrator, and conduct independent internal and criminal investigations.

This policy delineates a position by the department of intolerance of domestic violence, whether occurring in this jurisdiction or another. An officer found guilty of domestic violence, in a criminal court shall have his/her police powers revoked.

II. DEFINITIONS

A. Domestic violence: For the purposes of this policy, refers to any act of violence (threatened or actual) including but not limited to:

- bodily injury or threat of imminent bodily injury
- sexual battery
- physical restraint
- property crime directed at the victim
- violation of a court order of protection, or similar injunction

- death perpetrated by a police officer (on or off duty) or any police department employee upon his or her domestic partner.

B. Partner is defined as any individual with whom the officer:

- is or was legally married
- has a child in common
- has or had a dating relationship
- is specified as such by MGL 209A or other state law.

III. PROCEDURES

A. Education and Training

1. Education

- a. If not already received through in-service or recruit training, upon implementation of the policy, all Recruit, Patrol, Field Training Officers, and Administrative Command/ Supervisors shall receive training that include those topics in the curriculum provided by the Massachusetts Police Training Committee or other reputable police training organization.
- b. Additional Administrative Command/ Supervisor training related to domestic violence should address the following:
 - Department Legal Considerations and Liability
 - Media and Public Relations
 - Criminal versus internal Investigations
 - Conducting Lethality/Dangerousness Assessments

2. Training

- a. In-Service Training

This Department shall select a series of effective and concise materials on domestic violence for routine dissemination to all personnel. Periodic in-service training as an addendum to legal update on domestic violence and stalking shall be held to review policies and discuss their implementation.

b. Roll-Call Training

As necessary, officers shall receive instruction about domestic violence and stalking during roll call.

B. Early Warning and Intervention

1. Pre-Hire Screening and Investigation

- a. The Amherst Police Department shall conduct thorough background investigations of all potential new employees to determine if elder abuse, child abuse, and/or domestic violence issues exist.
- b. All candidates shall be asked about past arrests or convictions for elder abuse, child abuse, and/or domestic violence-related incidents and past civil protection orders.
- c. Those candidates with a history of perpetrating elder abuse, child abuse or domestic violence shall be screened out at this point in the hiring process.

2. Post-Conditional Offer of Employment

- a. The department shall require a psychological examination of all viable candidates to be performed by an experienced psychologist and/or psychiatrist. (See APD Policy # 45 "Recruitment")
- b. The psychological screening will focus on indicators of violent or abusive tendencies or behaviors in their background.

3. Department Responsibilities

- a. The department shall either in response to observed warning signs or at the request of an officer provide non-punitive avenues of assistance to officers, their partners, and other family members before an act of domestic violence occurs.
- b. The department shall identify a procedure for making confidential referrals to confidential counseling services

either internally or in collaboration with the Employee Assistance Program.

- c. Officers who disclose to any member of the department that they have personally engaged in domestic violence are not entitled to confidentiality. The report of such criminal conduct must be treated as an admission of a crime and shall be investigated both criminally and administratively.

4. Supervisor Responsibilities

- a. Demonstration of inappropriate aggressive behaviors while conducting police business shall be documented for consideration by supervisors. These behaviors include the following: stalking and inappropriate surveillance activities, unusually high incidences of physical altercations, injuries, or verbal disputes.
- b. Supervisors shall maintain close supervision of officers whose behavior is inconsistent with acceptable standards for on-duty problem resolution.
 - 1. Supervisors shall monitor frequent tardiness and absences.
 - 2. Supervisors shall proactively inquire about all on- or off-duty officer injuries.
 - 3. Supervisors shall immediately make their ranking supervisor aware of any and all such behaviors.
- c. Supervisors shall be cognizant of and document all behavior, on or off duty, where officers may be exhibiting signs of possible domestic violence-related problems; including increased use of force during arrests, alcohol and/or drug abuse, increase in controlling behaviors, stalking activity, citizen and fellow officer complaints of unwarranted aggression and verbal abuse.
 - 1. Supervisors shall immediately make their ranking supervisor aware of any and all such behaviors.
 - 2. Supervisors shall prepare and submit via the chain of command a written request for evaluating an officer's mental and physical well-being by suitable professionals when behaviors or circumstances deem appropriate.
 - 3. The chief of police shall be informed of such circumstances or concerns in a timely manner

through the department's chain of command.

5. Police Officer Responsibilities

- a. Officers are encouraged and entitled to seek confidential assistance from the department to prevent a problem from escalating to the level of criminal conduct against an intimate partner.
- b. Officers with knowledge of abuse and/or violence involving fellow officers must report such information in a timely manner to their supervisor. Failure to do so will subject the officer to investigation, disciplinary action, and possible sanction and/or criminal charges if applicable.
- c. All officers shall be aware of possible witness or victim intimidation/coercion. Whenever an officer suspects this is occurring, he/she shall prepare a written report and immediately deliver it to the Chief of Police through the proper chain of command.
- d. Officers who engage in threatening, harassing, stalking, surveillance, intimidation of a witness or other such behavior designed to interfere with cases against fellow officers will be subject to investigation, disciplinary action, and possible sanction and/or criminal charges.
- e. Officers who fail to cooperate with the investigation of a police officer involved domestic violence case will be subject to investigation, disciplinary action, and possible sanction and/or criminal charges.
- f. An officer who falsely reports that a victim of a police officer domestic violence incident has committed a crime (such as child abuse or neglect) will be subject to investigation, disciplinary action, and possible sanction and/or criminal charges.
- g. An officer who is the subject of a criminal investigation, protective or restraining order related to domestic violence, regardless of jurisdiction, is required to report him/herself to his/her supervisor and provide notice of the court dates, times, appearances, and proceedings in a timely manner.

- h. An accused officer who is the subject of any civil protective order proceeding, whether or not the order is issued and regardless of jurisdiction shall notify the Chief of Police in a timely manner and provide a copy of the order, if issued, to his/her supervisor.
- i. Upon departmental knowledge of any protective order issued against an officer, said officer may be placed on administrative leave. The officer's handgun and any other department issued firearms shall be taken from the officer and secured. Said weapons, if allowable under state or federal law and at the discretion of the Chief of Police may be returned to the officer for duty purposes only. All firearms shall be returned to the Shift Commander at the end of a shift.

C. Incident Response Protocols

1. Department-wide Response

- a. The department shall accept, document, and preserve all calls or reports, including those made anonymously, involving possible police officer domestic violence as "on-the-record" information.
- b. All reports of possible criminal activity implicating police officers in domestic violence shall be documented in accordance with the policies governing the handling of all reports of domestic violence by citizens. An incident report shall be completed including details on date, time, location, circumstances, names (if known), officials notified, and actions taken; a case file number shall be assigned and the report filed.
- c. A copy of the report detailing the possible criminal activity implicating an officer in domestic violence shall be directed to the Chief of Police and the Chief will see that all supervisors are made aware of the incident.
- d. All such incident reports shall be made available by the department to the involved victim without cost.

2. Dispatcher Response

- a. Dispatchers shall be instructed to assign top priority to all domestic violence calls, including those that involve or appear to involve a police officer of any department.
- b. Dispatchers shall document all domestic violence calls received that involve, or appear to involve, a police officer and immediately notify the supervisor, regardless of the involved officer's jurisdiction.
- c. Dispatchers shall prepare and preserve documentation of the facts and circumstances of the call, including the 911 tape, for use in potential criminal or internal investigations.
- d. Dispatchers shall have available current lists of local domestic violence victim advocacy organizations for on-scene supervisors to provide to victims.

3. Patrol Response

- a. Upon arrival on the scene of a domestic violence call/incident involving a police officer, the primary patrol unit shall immediately notify dispatch and request a supervisor be sent to the scene, regardless of the involved officer's jurisdiction.
- b. If the alleged offender has left the scene and probable cause to arrest exists, the responding officers shall
 - 1. search the area as appropriate
 - 2. obtain information from victim, family, and witnesses as to where the offender may have gone
 - 3. the supervisor will see that the jurisdiction where the suspect is believed to be going is notified so they may affect an arrest on probable cause
 - 4. seek an arrest warrant.

4. On-Scene Supervisor Response

- a. A supervisor shall report to the scene of all police officer domestic violence situations, regardless of the involved officer's jurisdiction.

- b. The on-scene supervisor shall assume command, ensure that the crime scene is secure and that all evidence is collected, including photographs. Photo documentation of the victim and scene shall be recorded where such resources are available and deemed necessary.
- c. In cases where probable cause exists, the on-scene supervisor should ensure an arrest is made.
- d. If the offender has left the scene, the supervisor shall ensure a search is conducted and an arrest warrant is obtained.
- e. Arrest of both parties involved in a domestic violence incident should be avoided. The supervisor shall ensure that a thorough investigation is conducted to determine who the primary aggressor is, and if it is determined, an arrest of the primary aggressor is made in accordance with state law.
- f. Whenever an officer is arrested, the supervisor shall relieve the accused officer of his/her service weapon (s) (if the officer has access to it) regardless of whether the officer is a member of the responding department. Where allowable under federal, state, or local ordinances, all other firearms owned or at the disposal of the accused officer shall be removed to ensure the victim's safety. *
- g. Whenever a police officer domestic violence call does not result in an arrest, the on-scene supervisor shall submit a written report explaining any and all reasons why an arrest was not made or a warrant was not sought.
- h. The on-scene supervisor shall ensure the victim is informed of the following:
 - 1. The availability of a domestic violence advocate.
 - 2. Confidential transportation to a safe house, shelter, or any other location that ensures victim safety.
 - 3. Procedures for obtaining restraining and/or protective orders and victim rights.
 - 4. The standard of probable cause for arrest within the Commonwealth of Massachusetts

5. Judicial process and victim rights following an arrest of the abuser, as well as the prompt notification when an offender is bailed
6. Information on community resources and local domestic violence victim advocacy organizations.

5. Additional Critical Considerations

- a. When responding to a domestic violence complaint involving a police officer from another jurisdiction, all responding officers, investigators, and supervisors shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an officer from their own department. The responding supervisor shall notify the chief of police, or his/her designee, in the accused officer's jurisdiction verbally as soon as possible..
- b. In the event that the reported incident involves the Chief of Police, the supervisor shall immediately notify the Town Manager.
- c. In responding to domestic violence situations where the victim is a police officer, standard domestic violence response and investigation procedures should be followed.
- d. In responding to domestic violence incidents where the parties involved are both police officers, standard domestic violence response and investigation procedures should be followed. After probable cause and dominant aggressor are determined, an arrest should be made and all service weapons of the accused officer confiscated.

**Note: Massachusetts State law requires the seizure of all additional weapons.*

6. Department Follow-Up

- a. The supervisor shall in a timely manner debrief all officers who respond to a police officer domestic violence call. During the debriefing, the supervisor shall

1. Review department confidentiality guidelines.
 2. Reaffirm that officer's share information only on a need-to-know basis.
 3. Establish a clear delineation of assignments in order to assist victims in a coordinated and consistent manner.
- b. Arrest warrants charging police officers with domestic assault and civil protective orders issued at a later time shall be served by no fewer than two officers with at least one being of senior rank to the officer being served.
 - c. On-scene and follow-up investigators shall proactively seek out information on existing restraining and/or protective orders and, if found, shall enforce them.
 - d. Following the reported incident, the Chief of Police shall designate a member of the command staff to act as a principal contact for the victim. The assigned officer will keep the victim apprised of the case throughout the adjudication process and provide the victim with a copy of the incident report.

7. Victim Safety and Protection

- a. Working with community resources and advocacy agencies, the department shall make available all necessary and appropriate services to each victim.
- b. All officers shall keep all information concerning victims confidential, including their whereabouts, safety plan, and any communications.
- c. The command staff officer shall inquire whether the victim wants any weapons removed from his/her home for safekeeping by the department.
- d. All officers shall be aware of the increased danger to victims when the victim leaves an abusive partner, and the designated command officer shall caution the victim to be alert to stalking activities on the part of the abuser and assist in safety planning.

- e. The command staff designated as principal contact for the victim shall inform the victim of confidentiality policies and their limitations, and ensure that confidentiality is maintained throughout the case.
- f. All officers shall be aware of possible witness or victim intimidation/coercion. Whenever an officer suspects this is occurring, he/she shall prepare a written report and immediately deliver it to investigator and the Chief of police through the proper chain of command.
 - 1. In order to ensure coercion is not being attempted, the investigator in charge shall seek out secondary sources of information.
 - 2. Supplemental evidence should be sought out and preserved.

D. Post-Incident Administrative and Criminal Decisions

The Amherst Police Department shall conduct separate parallel internal and criminal investigations (if the incident is alleged to have occurred in the Town of Amherst) of alleged incidents of police officer domestic violence. If the facts of the case indicate that domestic violence has occurred or any departmental policies have been violated, administrative action shall be taken separate and distinct from any criminal proceedings as soon as practicable. Independent of the outcome of the criminal case, the department shall adhere to all positions and policies relating to the incident.

The department will adhere to/observe all necessary protocols to ensure an accused officer's departmental, union, and legal rights are upheld during the internal and criminal investigations.

1. Internal Investigations and Decisions

The responsibility to complete the internal investigation of a police officer domestic violence incident shall rest with the Chief of Police or his designee. The investigation should adhere to policies and procedures set for in policy # 63 INTERNAL AFFAIRS

- a. The investigating official shall conduct an internal investigation utilizing standard elements of criminal investigations. Witnesses shall be contacted, re-interviewed, and statements recorded; crime scene evidence, photographs and medical records accessed, 911 tapes requested, and all information fully documented.

- b. Where sufficient information exists, the department shall take immediate administrative action to intervene, which can include removal of badge, removal of weapon, reassignment, administrative leave with or without pay, or termination. (SEE APD POLICY # 63 –“INTERNAL AFFAIRS” AND #75 “DISCIPLINE”)
- c. Where an arrest was not made, but sufficient concern exists, the department shall initiate an independent internal investigation and decide the officer's status based on the outcome of the investigation.
- d. In determining the proper course of administrative action, a department shall consider factors such as level of danger an officer poses to the victim (based on risk assessment measures), an officer's history of compliance with departmental rules, history of aggressive behaviors, and existence of an alcohol or substance abuse problem.
- e. Pending the internal and criminal investigations for alleged acts of domestic violence and/or violation of departmental policies, the department shall assign the accused officer to duties that do not require response to domestic violence cases.

2. Criminal Investigations and Decisions

The responsibility to complete a criminal investigation of an incident of police officer domestic violence shall rest with a trained officer or detective as assigned by the Chief of Police

- a. The investigating official shall conduct criminal investigations as she/he would for any other criminal violation. Witnesses shall be contacted, statements recorded, evidence collected, photographs taken of the scene and injuries, medical records accessed, 911 tapes requested, and all information fully documented.
- b. When appropriate, the investigating official or department shall conduct sufficient interviews to support criminal charges.
- c. Even though an initial report may already exist concerning a police officer, if the victim reports any subsequent or additional criminal activity, each incident shall be documented separately, assigned a case number, and

investigated thoroughly.

- d. The department shall completely investigate the charges and where warranted seek prosecution even if the victim recants the charges.
- e. The department shall establish a liaison to work with the prosecuting/district attorney for each case. This officer shall present the information to the district attorney for proper action in a timely fashion and request that the prosecuting attorney in turn make timely decisions about the adjudication of the case.
- f. Filing of court papers/complaints shall be requested by the investigating officer, as with any other case for criminal prosecution.

3. Criminal Conviction

- a. Federal law prohibits officers convicted of misdemeanor domestic violence assaults from carrying firearms. The department shall ensure compliance with federal law.
- b. Any police officer convicted of a domestic violence crime as defined herein shall have his/her police powers revoked.